

ORDINANCE NO. 249

AN ORDINANCE AMENDING ORDINANCE NO. 69, REGULATING THE CONSTRUCTION, ALTERATION, MAINTENANCE, AND REPAIR OF SIDEWALKS; PROVIDING A PENALTY

The City of Coos Bay Ordains as follows:

Section 1. Section 1, Definitions, is amended to read as follows:

Section 1. Definitions. As used in this ordinance, the following mean:

City Manager. The City Manager for the City of Coos Bay, or his or her designee.

Good Repair. A state of being free of patent and latent defects.

Sidewalk. Any paved area in that part of public right-of-way located between the curblines or the lateral lines of a roadway and the adjacent property lines; any culvert located in such part of the public right-of-way.

Safe Condition. A state of being free of snow, ice, obstructions, or any other condition causing a hazard to persons or vehicles using public right-of-way.

Section 2. Section 2, Maintenance of Sidewalks, is amended to read as follows:

Section 2. Maintenance of Sidewalks. The owner of real property abutting a sidewalk shall maintain the sidewalk in good repair and safe condition.

Section 3. Section 3, Liability for Sidewalk Injuries, is amended to read as follows:

Section 3. Liability for Sidewalk Injuries.

(1) The owner of real property abutting sidewalk shall be liable to any person injured because of failure by the owner to maintain the sidewalk in good repair and safe condition.

(2) If the City is required to pay damages for an injury to any person caused by the failure of an owner to maintain a sidewalk in good repair for safe condition, the owner shall reimburse the city for the amount of the damages thus paid and for the attorney fees and costs of defending against the claim for damages. The city may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.

Section 4. Section 5, Notice to Construct, Alter, or Repair Sidewalk; Section 6, City May

Construct, Alter, or Repair Sidewalk; Section 7, Assessment for Sidewalk Work Done by City; and Section 8, Lien Docket; Interest, are amended and incorporated into a new Section 5, to read as follows:

Section 5. Construction, Alteration, Removal or Repair of Sidewalk

(1) Initiation of Proceedings to Place a Sidewalk in Good Repair or in Safe Condition

(A) When the City Manager determines that public health and safety requires the construction or removal of a sidewalk, or that as a result of the owner's failure to maintain a sidewalk in good repair or in safe condition an existing sidewalk is in need of alteration, removal or repair, the City Manager shall make written findings to support such determination, and shall issue a Notice of Initiation of Proceedings to the owner of the property abutting the sidewalk.

(B) The Notice shall contain a statement of the findings supporting the City Manager's determination. The Notice shall also state that the owner must construct a sidewalk or alter, remove or repair an existing sidewalk; shall state that the owner is required to complete the work within thirty days after service of the Notice; and shall state that if the work is not completed by the owner within the thirty day period, then the City may undertake the work and assess the costs against the property abutting the sidewalk. The Notice shall also apprise the owner of the owner's right to request reconsideration and right to appeal pursuant to paragraphs (D) and (E) of this subsection.

(C) The City Manager shall cause a copy of the Notice to be served upon the owner of the property abutting the sidewalk by registered or certified mail, return receipt requested, sent to the last known address of the owner. If the owner fails to accept the mailed Notice, or if the Notice is undeliverable as addressed, the City Manager shall order substituted service by causing a copy of the Notice to be posted in a conspicuous place on the abutting property.

(D) The owner may file a written request for reconsideration with the City Manager. The request for reconsideration shall be filed within ten (10) days of service of the Notice, and shall set forth in reasonable detail the facts and arguments supporting the owner's reasons why he or she should not be responsible for the construction, alteration, removal, or repair of the sidewalk. The City Manager shall render a final written determination within ten (10) days of the receipt of the request for reconsideration. The filing of a request for reconsideration shall be a condition precedent to the right to appeal to the City Council pursuant to this Section.

(E) If the request for reconsideration is denied, the owner may file a Request for Appeal, in writing, with the City Manager within ten days of the owner's

receipt of his or her final written determination. A hearing shall be scheduled before the City Council as soon as practicable after the receipt of a request for appeal. After hearing, the City Council shall adopt a resolution, affirming, reversing, or modifying the decision of the City Manager.

(2) City May Construct, Alter, Remove, or Repair Sidewalk. If the work identified in the Notice is not completed within 30 days after service of the Notice or if the owner has not entered into a written agreement with the City to cause such work to be made within a specified period of time, the City Council may, by resolution, order the construction, alteration, removal or repair to be made. The resolution shall recite the means whereby Notice was provided to the owner, indicate the nature of the work to be performed, and include a legal description of the abutting property. A copy of the resolution shall be mailed to the owner at his or her last known address by registered or certified mail, return receipt requested.

(3) Assessment for Sidewalk Work Done by City. Upon completion of the work, the Manager shall submit to the Council a report containing an itemized statement of costs. Upon receipt of the report, the Council shall by resolution assess the cost of the work against the property abutting the sidewalk. The assessment shall be a lien against the property and may be enforced and collected as provided in ORS 223.505-223.650.

(4) Notice of Assessment. A copy of the resolution assessing the cost of the work shall be mailed to the property owner by registered or certified mail, return receipt requested.

(5) Lien Docket; Interest. The Recorder shall enter into the City lien docket a statement of the amount assessed against the property; a statement that the lien is for sidewalk construction, alteration, removal, or repair; the name of the property owner; and the date of the assessment resolution. The assessment shall become a lien upon the real property at the time of entry upon the lien docket. The lien shall bear interest at the statutory rate commencing on the date the lien is entered in the City lien docket.

Section 5. Sections 9, 10, and 11 are renumbered as Sections 6, 7, and 8, respectively.

Section 6. Severability. The sections and subsections of this ordinance are severable. The invalidity of any one section or subsection shall not affect the validity of the remaining sections or subsections.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay on this 20th day of January, 1998, by the following vote:

Yes: Mayor Verger, Councilors Jeff McKeown, Cindi Miller, Kevin
Stufflebean, Don Spangler, and Judy Weeks

No: None

Absent: Councilor Joe Benetti

Joanne Verger
Mayor of the City of Coos Bay
Coos County, Oregon

ATTEST:

Joyce Jansen
Deputy Recorder of the City of Coos Bay
Coos County, Oregon